

Opioid Makers Scramble to Settle Ahead of Ohio Trial, Purdue Mulls Bankruptcy

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Last week's landmark \$572 million [judgement against Johnson and Johnson](#) has triggered a torrent of PR stunts and legal maneuvers from opioid makers in the few days since the stunning decision.

At a [press conference](#) immediately following the judgement on August 26, Oklahoma Attorney General Mike Hunter was asked if this was a "day of reckoning" for pharmaceutical companies. Hunter responded, *"There's no question about it...these companies knew what was going on at the highest levels. They just couldn't quit making money from it."*

Days after J&J's loss, it was widely reported that several major drug companies were in discussions with authorities to resolve thousands of opioid-related suits filed against them. Among them was Purdue Pharma, Johnson & Johnson, Endo International and Allergan.

NPR [wrote](#), *"The healthcare giants are currently holding talks with attorneys general, attorneys representing local governments and Judge Dan Polster of the Northern District of Ohio, who is overseeing the consolidated federal trial."*

Carl Tobias, a law professor at the University of Richmond School of Law commented, *"If Johnson & Johnson, which has the reputation of being the toughest litigator around, can't*

prevail, I think [other defendants] have to really seriously consider their position."

A sobering view analyzing a snapshot of the medical crossroads society finds itself at came from a recent opinion piece in the often rabidly pro-pharmaceutical Los Angeles Times media outlet. Author Kathleen Sharp [wrote](#):

"Neither the opioid cases nor the myriad other pharmaceutical lawsuits will make a real difference until consumers wake up to the fact that drugs and medical devices aren't panaceas: They can have tremendous costs and consequences.

Sharp continued, *"American pharmaceutical firms have carpet-bombed communities with drugs, employing aggressive and deceptive marketing. They have pushed their drugs relentlessly, including for uses not approved by the FDA."*

Financial analysts and media outlets currently show mixed predictions as to what current and future legal challenges will mean for opioid-pushing pharmaceutical companies. Legal analysts have also demonstrated uncertainty towards exactly how the cases will be presented in courts.

Jonathan Turley, a Professor of Public Interest Law at George Washington University, cautioned in a [USA Today opinion piece](#) that it would be a mistake to view the Oklahoma case as the "litmus test" for the future opioid litigation. Oklahoma's legal case against J&J was tried as a public nuisance case. Turley explains that nuisance has become a type of challenge of last resort for advocates who have failed to prevail in legislatures or other legal challenges. He writes, *"The problem in the opioid litigation has is not a lack of real injuries but the lack of a viable legal theory of recovery. Lawyers have been exploring a variety of claims from false advertising to warranties to misrepresentation to consumer fraud."*

The impact to society from widespread opioid practices,

whether it be from overprescribing doctors, widespread misrepresentation of the safety and science, inept regulators and enforcement mechanism and the combination of other factors that supercharged the epidemic, has many places to focus the blame. The legal situation is currently in a deep state of flux seeing many opioid manufacturers making moves behind the scenes to settle ahead of the anticipated October trial.

Purdue Pharma, once feigning strength in the face of opioid legislation and settlements, now appears to be waving the white flag. The company recently [entered into talks](#) to settle more than 2,000 [lawsuits](#) for \$10 billion to \$12 billion while also declaring Chapter 11 bankruptcy and restructuring into a for-profit “public benefit trust.”

In the same week as J&J’s legal loss, independent news organization [ProPublica released](#) a 2015 deposition from Richard Sackler, former chairman and president of OxyContin maker Purdue Pharma. The clips, part of over eight hours of deposition, show Sackler answering “I don’t know” more than one hundred times while fielding questions about his company and its opioid product.

Sackler was questioned about Purdue’s aggressive marketing that contributed to the American opioid epidemic, which was declared a [public health emergency](#) by the U.S. Department of Health and Human Services in 2017. When asked if he thought Purdue’s marketing was “overly aggressive,” Sackler quickly responded, “No.”

Purdue Pharma’s fate won’t be a new development as widespread opioid legal litigation and proceedings have already taken corporate casualties. In May, the founder and four executives of Insys Therapeutics [were convicted](#) of racketeering and conspiracy, which can carry a jail sentence of twenty years. Following the conviction, Insys Therapeutics agreed to pay a

\$225M settlement to the government and promptly [filed for bankruptcy](#).

Connecticut Attorney General William Tong, who reportedly met with members of the Sackler family alongside a group of other attorneys general in Cleveland recently, said in a statement:

“At a minimum, Connecticut demands that Purdue be broken up and shut down, and that its assets be liquidated...Connecticut demands that the Sacklers and Purdue management be forced completely out of the opioid business, domestically and internationally, and that they never be allowed to return.” Tong [was joined](#) by New York Attorney General Letitia James and Massachusetts Attorney General Maura Healey, who also voiced their displeasure with the proposed settlement.

In 2016 the Los Angeles Times released an investigative piece titled [OxyContin goes global – “We’re only just getting started”](#). The exposé reported that Purdue Pharma was now expanding internationally. The LA Times wrote, *“A network of international companies owned by the family is moving rapidly into Latin America, Asia, the Middle East, Africa and other regions, and pushing for broad use of painkillers in places ill-prepared to deal with the ravages of opioid abuse and addiction.”* It was found that the same, society-crippling opioid playbook was being launched internationally and endorsed by the World Health Organization. Even if Purdue shuts its doors via bankruptcy in the U.S., will its metastasized network of international companies around the world continue its legacy unabated?

<https://youtu.be/N56Np2cqSp0>